

Receipt Number

556234

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
DETROIT DIVISION**

GEORGE T. DUNLAP, IV,

Plaintiff,

vs.

WISCONSIN CENTRAL, LTD., WISCONSIN
CENTRAL TRANSPORTATION
CORPORATION, CANADIAN NATIONAL
RAILWAY COMPANY, ILLINOIS CENTRAL
RAILROAD COMPANY d/b/a CN-IC,
CANADIAN NATIONAL RAILWAY
COMPANY, a Railroad Corporation d/b/a
WISCONSIN CENTRAL LTD.

Defendants.

Case: 2:07-cv-11596
Assigned To: Battani, Marianne O
Referral Judge: Morgan, Virginia M
Filed: 04-09-2007 At 09:21 AM
CMP: DUNLAP V. WISCONSIN CENTRAL LT
D ET AL

Trial by Jury Demanded

COMPLAINT AT LAW

NOW COME the Plaintiff, GEORGE T. DUNLAP, IV, by and through his attorneys,
CRAIG W. CHURCH and HOEY & FARINA, and for his Complaint against the Defendants,
WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION
CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL
RAILROAD COMPANY d/b/a CN-IC, and CANADIAN NATIONAL RAILWAY
COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., and states as
follows:

1. Jurisdiction of this Court is invoked under the provisions of Title 45 U. S. Code sec. 56 and Title 28 U. S. Code sec. 1331.
2. This action arises under, and the rights and liabilities of the parties to this cause are governed by, the Federal Employer's Liability Act, 45 U.S.C. sec. 51 et seq.

3. At all pertinent times, Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., were and are railroad corporations doing business in the State of Michigan.

4. On July 27, 2004, at about 8:30 a.m. and at all pertinent times, Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., owned and operated in interstate commerce a railroad which carried passengers and freight.

5. On July 27, 2004, at about 8:30 a.m. and at all pertinent times, Plaintiff, GEORGE T. DUNLAP, IV, was employed by the Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., as a conductor.

6. At all pertinent times, Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., managed, maintained, and used as a portion of its railroad systems, a section of track in the area of Victory Way Road in Newberry, Michigan.

7. On July 27, 2004, at about 8:30 a.m. and at all pertinent times, Plaintiff, GEORGE T. DUNLAP, IV, was performing work for Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., in connection with or in furtherance of Defendants' business of interstate commerce and transportation.

8. In the course of his duties on July 27, 2004, and at all pertinent times, Plaintiff, GEORGE T. DUNLAP, IV, was required to work as a conductor on Defendants' local train #L54281-27 riding the point of car BFPX 1015.

9. On July 27, 2004, and at all pertinent times, Defendants' local train #L54281-27, which contained Plaintiff, GEORGE T. DUNLAP, IV, was traveling northbound approaching Victory Way Road, in Newberry, Michigan.

10. At that time, when Defendants' train #L54281-27 entered the Victory Way Road grade crossing, the lead car on which Plaintiff was riding the point was violently impacted by a vehicle traveling east on Victory Way Road.

11. As the result of the violent head-on collision between the eastbound car on Victory Way and Defendant's train #L54281-27 on July 27, 2004, Plaintiff, GEORGE T. DUNLAP, IV, sustained severe injuries to his right leg which required amputation.

12. On July 27, 2004, and at all pertinent times, it was the continuing duty of the Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL

RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., at the time and place in question, to provide Plaintiff, GEORGE T. DUNLAP, IV, with a reasonably safe place to work; to provide reasonably safe conditions in which to work; to provide adequate instruction, training, rules and procedures, to provide reasonably safe equipment; and an absolute duty to comply with the regulations promulgated by the Federal Railroad Administration.

13. In violation of its duties, Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., by and through its employees and agents, negligently and carelessly failed to provide Plaintiff, GEORGE T. DUNLAP, IV, with a safe place to work by committing one or more of the following negligent acts or omissions:


- (a). Failed to alert motorists when entering a public grade crossing by blowing the whistle;
- (b). Failed to adequately train and instruct its employees;
- (c). Failed to develop adequate methods and procedures for protecting moves through public grade crossings;
- (d). Failed to develop adequate rules and procedures for protecting moves through public grade crossings;
- (e). Failed to follow industry custom and practice;
- (f). Failed to follow and enforce its rules and procedures;
- (g). Failed to provide warning to motorists;
- (h). Failed to adequately protect the move across the grade crossing;
- (i). Otherwise failed to provide Plaintiff with a reasonably safe place to work.

14. Defendants' failure to provide Plaintiff GEORGE T. DUNLAP, IV, with a safe place to work by one or more of the aforementioned negligent acts or omissions caused, in whole or in part, Plaintiff's injuries.

15. As a consequence, Plaintiff, GEORGE T. DUNLAP, IV, incurred injuries which have caused and will continue to cause him great pain, suffering, inconvenience, anguish and disability; as a further result, Plaintiff, GEORGE T. DUNLAP, IV, has been and will in the future be kept from attending to his ordinary affairs and duties, and has lost and will lose great gains which he otherwise would have made and acquired; as a further result, Plaintiff, GEORGE T. DUNLAP, IV, has incurred medical, hospital and related expenses and is reasonably certain to incur further medical, hospital and related expenses in the future.

16. Plaintiff, GEORGE T. DUNLAP, IV, demands trial by jury.

WHEREFORE, Plaintiff, GEORGE T. DUNLAP, IV, demands judgment in his favor and against Defendants, WISCONSIN CENTRAL, LTD., WISCONSIN CENTRAL TRANSPORTATION CORPORATION, CANADIAN NATIONAL RAILWAY COMPANY, ILLINOIS CENTRAL RAILROAD COMPANY d/b/a CN-IC and CANADIAN NATIONAL RAILWAY COMPANY, a Railroad Corporation d/b/a WISCONSIN CENTRAL LTD., in a sum in excess of the jurisdictional minimum.



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(312) 939-1212

CIVIL COVER SHEET

This cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as may be required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of filing the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) **PLAINTIFFS**
GEORGE T. DUNLAP, IV

(b) County of Residence of First Listed Plaintiff DELTA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

Wisconsin Central, Ltd., Wisconsin Central Trans Corp., Canadian National RR Co., IL Central Railroad Co. d/b/a IC, Canadian National RR Co., a Railroad Corp d/b/a Wisconsin Central Ltd.

County of Residence of First Listed Defendant

Case: 2:07-cv-11596

OF THE

Assigned To: Battani, Marianne O

Referral Judge: Morgan, Virginia M

Filed: 04-09-2007 At 09:21 AM

CMP: DUNLAP V. WISCONSIN CENTRAL LT

D ET AL

II. BASIS OF JURISDICTION (Select One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Select One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Select One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input checked="" type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Select One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

Action for damages for personal injuries under FELA 45 USC 51 by railroad employee against railroad employer

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$
Excess of Jurisd. min.

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

January 22, 2007

SIGNATURE OF ATTORNEY OF RECORD

George T. Dunlap, IV

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

SUBJ: QUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes

☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
